

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8302 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GHANSHYAMSINH MANSINH ZHALA

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner

MR DA BAMBHANIA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/12/97

ORAL JUDGEMENT

Heard learned counsel for the parties.

2. Rule. Shri D.A.Bambhania waives service of Rule on behalf of respondents. The matter is taken up for final hearing on the request of learned counsel for the parties.

3. The petitioner, first grade Police Jamadar, serving in the Prohibition and Excise Branch, Rajkot City, filed this Special Civil Application and prayer has been made for directions to the respondents to pay the special compensatory allowance to all those who were transferred to Prohibition and Excise Branch of Rajkot District, City or Taluka, Gondal and Morbi, as awarded to other Police Constables in response to the Government Resolutions issued in 1985-86, annexure 'B' and 'B/1'.

4. The learned counsel for respondents very fairly submits that the proposals have already been sent by the Department to the Government for granting special compensatory allowance to the petitioner and other persons alike who have been transferred to Prohibition and Excise Branch, and the Government will take necessary decision on those proposals within a reasonable time. He further states that he will see that on these proposals final decision will be taken by the Government within a time bound programme as this Court gives.

5. Otherwise also, in such matters, approach of the petitioner directly to this Court has to be deprecated. In such matters, the petitioner has to first make a representation and thereafter he has to wait for a reasonable time for decision of the Government thereon. I do not find anything from the Special Civil Application that the petitioner has filed any representation in earlier point of time. A representation has been filed on 11.9.97 and this writ petition has been filed only on 17.11.97. So in hot haste this petition has been filed. The petitioner should have waited for a reasonable time for decision of the Government over his representation.

6. Be that as it may, in view of the statements made by learned counsel for respondents, now this writ petition deserves to be disposed of in terms that the proposals which have been made by the Department for giving special compensatory allowance to the constables who have been transferred to the Prohibition and Excise Branch of the Rajkot District, City or Taluka, Gondal and Morbi, shall be decided by the State Government within a period of three months from the date of receipt of writ of this order. In case the proposals made by Department are accepted by the Government, and the petitioners and all persons alike the petitioner are considered to be eligible for grant of special compensatory allowance then they shall be entitled for all the consequential benefits following therefrom. It is made clear that all alike persons should be given these benefits irrespective of the fact whether they have filed petition before this

Court or not. In case the State Government declines to accept the proposals of the Department and declines to give benefit of special compensatory allowance to this class of persons, then a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. In case of difficulty, liberty to the petitioner for revival of this Special Civil Application is granted. Rule and Special Civil Application stand disposed of in aforesaid terms with no order as to costs.

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(sunil)